

Senate Bill No. 940

CHAPTER 169

An act to amend Section 185040 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 2016. Filed with
Secretary of State August 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 940, Vidak. High-Speed Rail Authority: eminent domain: right of first refusal.

Existing law creates the High-Speed Rail Authority with specified powers, including the power to acquire rights-of-way through purchase or eminent domain, and duties relating to the development and implementation of an intercity high-speed rail system. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, authorizes \$9.95 billion in general obligation bonds for high-speed rail development and other related purposes.

Under existing law, if the authority determines that real property or an interest therein acquired by the state for high-speed rail purposes is no longer necessary for those purposes, the authority is authorized to sell or exchange the real property or interest therein at fair market value as specified.

This bill would require the authority, if selling the real property or interest therein, to send notification by certified mail to the last known owner of the real property or interest therein at his or her last known address, advising him or her that the real property or interest therein will be offered for sale. The bill would require the authority to wait at least 30 days after the notification has been sent to sell the real property or interest therein.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 185040 of the Public Utilities Code is amended to read:

185040. (a) If the authority determines that real property or an interest therein, previously or hereafter acquired by the state for high-speed rail purposes, is no longer necessary for those purposes, the authority may sell or exchange the real property or interest therein at fair market value in the manner set forth in this section.

(b) Prior to selling the real property or interest therein in any other manner authorized under this section, the authority shall send notification by certified

mail to the last known owner of the real property or interest therein at his or her last known address, advising him or her that the real property or interest therein will be offered for sale. The authority shall not sell the real property or interest therein until at least 30 days after the notification has been sent.

(c) The authority may sell the property to an adjoining landowner if it makes either of the following findings:

(1) (A) That the property is of a size or shape that it is below the average normal standard size and shape of other privately owned properties in the immediate neighborhood, and that if the property were sold to other than the adjoining owner, it would give rise to a land use development thereof that would be below and not consistent with the normal land use of other properties in that neighborhood, (B) that the sale of the property to a party other than the adjoining owner may cause an undue or unfair hardship to the adjoining owner in the normal land use development or operation of his or her property, (C) that the property considered as part of the adjoining property would have a higher and better use than under separate ownership, and (D) that the fair market value of the property considered as part of the adjoining property would be higher than under separate ownership.

(2) (A) That the sale of the excess parcel to other than the adjoining owner would deprive the adjoining owner of an existing vested right of access to a public highway and thereby create a possible cause of action against the authority or the state.

(B) A sale to an adjoining landowner pursuant to this subdivision may be by contract to sell or trust deed. The payment period in a contract of sale or sale by trust deed shall not extend longer than 10 years from the time the contract of sale or trust deed is executed, and a transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price.

(d) The authority may sell the property to municipalities or other local agencies at their request, without calling for competitive bids, at a price representing the fair market value thereof, and upon a determination that the intended use is for a public purpose.

(e) If it is improved property, the property may be sold to a former owner who has remained in occupancy, or to a residential tenant of a tenure of five years or more with all rent obligations current or paid in full.

(f) Any real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein as needed for high-speed rail purposes. This provision does not authorize exchanges where the value of the state-owned property exceeds the value of the property the authority seeks to acquire, unless the excess value is incidental and subdivision of the state-owned property, in order to produce a smaller parcel of equal value to the value of the property the authority seeks to acquire, would reduce the total value of the state-owned property.

(g) Except as otherwise provided in this section, property shall be sold either by receipt of competitive sealed bids, or at public auction, whichever

method is determined by the authority to be more likely to achieve the higher sales price.

(h) Any payments received under this section for the sale of real property no longer necessary for high-speed rail purposes shall be deposited in the High-Speed Rail Property Fund created pursuant to Section 185045, and shall be available to the authority upon appropriation as provided in that section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect private property rights, it is necessary for this act to take effect immediately.